

REMARKS

The Office Action dated November 4, 2002, has been received and its contents carefully noted. With respect to the requirement for election and restriction between groups I, II, and III, applicant hereby provisionally elects group III, consisting of claims 17 through 20, 26, 27, and 53. Applicant traverses the restriction requirement of groups I, II, and III, and requests reconsideration.

It is respectfully stipulated that all of the claims are so closely related to each other that they should remain in the same application to preserve unity of the invention and thus avoid any possibility of the charge of double patenting arising at some later date. It is typically improper for process and apparatus claims involving exactly the same inventive concept and evidencing complete "unity of invention" to be divided. *Steinmetz v. Allen*, 192 U.S. 543, 48 L.Ed. 555 (1904). Both of the above-identified claims are directed to the production of thrombin and the methods and apparatus employed therein.

The statutory requirement under 35 U.S.C. §121 that there be both independence and distinction between the inventions has not been met. The Examiner has not set forth with specificity what is believed to be the distinction to be between the gaming device and the method for gaming. For example, with respect to groups I and III, the Examiner is engaging in unbridled speculation as to the production of the claimed product as well as to whether any other product may be made using the claimed apparatus. With respect to groups II and III, the Examiner has no basis whatsoever for stating that "invention III has separate utility such as making compounds other than those of group II". In fact, the examiner's assertion

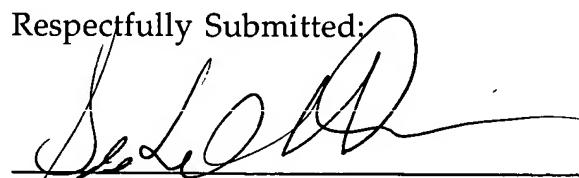
that the invention of group III makes the compounds of group II is erroneous. Therefore, the Examiner is respectfully requested to withdraw the restriction requirement between groups I, II, and III. Although claims 9 through 13, 22 through 25, and 54 have not been provisionally elected, applicant still reserves the right to file a divisional application for this subject matter and applicant does not waive any right therefore or abandon such subject matter.

A Preliminary Amendment is also provided before receipt of any substantive Office Action on the merits of this case. The Preliminary Amendment rectifies various typographical inexactitudes in the claims and adds new claims. No new matter is added.

In view of the foregoing, the Examiner is respectfully requested to reconsider the position taken in the last Office Action acting favorably hereon by removing this restriction requirement. If, upon further consideration, the Examiner believes that further issues remain outstanding or new ones have been generated, he is respectfully requested to call undersigned in order to expeditiously resolve same.

Dated: May 28, 2004

Respectfully Submitted:



BERNHARD KRETEN
Applicant's Attorney
Telephone (916) 930-9700
Registration No.: 27,037